IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Revision No. 5449 of 2006

Date of Decision: 17.10.2006

Chand Singh

...Petitioner.

Versus

Bibo and others

...Respondents.

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.

PRESENT: Mr. Surinder Garg, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

In this revision petition filed under Article 227 of the Constitution of India, prayer is for setting aside order dated 11.8.2006 passed by the trial court whereby the application for amendment of the plaint has been dismissed.

The trial court while dismissing the application of the petitioner has noticed as under:-

> "After hearing the arguments advanced by counsel for both the parties and the proceedings discussed above, it is clear that the plaintiff had claimed declaration and that he and defendant no.4 are owner in possession and state claimed inheritance of Arjun Singh son of Veer Singh on the basis of registered will dated 9.7.1991. No doubt, permission was granted to the plaintiff to prove the will dated 9.7.1991 by way of secondary evidence. He has

also examined PW-1 Darshan Singh Deed Writer and Mohiner Singh registration clerk along with other attesting witnesses of the will. On the other hand, the will allegedly executed by Arjun Singh dated 9.7.1991 is denied by the defendants. Issues in this regard have already been framed, khasra numbers of the property regarding which the plaintiff has sought the declaration has already been mentioned in the head note of the plaint and the title of the parties is yet to be decided after going through the evidence examined by both the witnesses when the present application has been filed, last adjournment was granted to the plaintiff to complete his evidence. Instead of examining witnesses, he again filed the present application. As the claim of the plaintiff is based on the will dated 9.7.1991 and the defendant is yet to have examine their witnesses regarding the genuineness of the will. I am of the view that the proposed amendment regarding the specific area and the numbers allegedly given to the plaintiff and defendant no.4 is not necessary for the proper adjudication of the matter in controversy. The real controversy between the parties is that whether Arjun Singh executed the will dated 9.7.1991."

In view of the above, no ground to exercise revisional jurisdiction by this Court under Article 227 of the Constitution of India is made out. Consequently, finding no merit in this revision petition, the same is hereby dismissed.

October 17, 2006
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(AJAY KUMAR MITTAL)
JUDGE